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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

10 Nehemiah Kong,  
11 Plaintiff,

12 vs.

13 Gradiazio Investment Company;  
14 Barchester Temple City, L.P., a  
California Limited Partnership; Bar-CA  
15 Independent I, Inc., a California  
Corporation; Garfield Beach CVS,  
16 L.L.C., a California Limited Liability  
Company; and Does 1-10,

17 Defendants.  
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CASE NO. 2:18-cv-06271-AB-SS  
**JUDGMENT ON DEFENDANTS'  
MOTION FOR PARTIAL  
SUMMARY JUDGMENT AND  
PLAINTIFF'S MOTION FOR  
PARTIAL SUMMARY  
JUDGMENT**

19 On October 18, 2019, Defendants Barchester Temple City, L.P., Bar-CA  
20 Independent I, Inc., and Garfield Beach CVS, LLC's ("Defendants") Motion for  
21 Partial Summary Judgment (Dkt. No. 47) and Plaintiff Nehemiah Kong's  
22 ("Plaintiff") Motion for Partial Summary Judgment (Dkt. No. 54) were heard  
23 before the Honorable André Birotte Jr. in Courtroom 7B of the above-entitled  
24 Court.

25 Ray Ballister, Esq. of Center for Disability Access appeared on behalf of  
26 Plaintiff.

27 Melissa Daugherty, Esq. and Kelley Fox, Esq. appeared on behalf of  
28 Defendants.

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1 After full consideration of the moving papers, opposing papers, reply papers,  
2 and oral argument of counsel, the Court granted Defendants' Motion for Partial  
3 Summary Judgment, finding that Plaintiff's sole federal claim is moot and,  
4 therefore, Plaintiff has presented no triable issue of material fact.

5 Pursuant to Rule 56 of the Federal Rules of Civil Procedure, the Court  
6 specified its reasons for granting Defendants' motion and denying Plaintiff's  
7 motion, with references to the evidence that indicates no triable issues of fact exist,  
8 in a written Order filed on October 22, 2019. (Dkt. No. 63).

9 **JUDGMENT**

10 By reason of said Order, Defendants Barchester Temple City, L.P., Bar-  
11 CA Independent I, Inc., and Garfield Beach CVS, LLC are the prevailing parties on  
12 their Motion for Partial Summary Judgment, and thus are entitled to judgment as set  
13 forth below:

14 **NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED**  
15 as follows:

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- 17 1. Judgment is entered in favor of Defendants and against Plaintiff;
  - 18 2. Plaintiff shall take nothing by way of his First Amended Complaint;
  - 19 3. Plaintiff's federal claim pursuant to the Americans with Disabilities Act  
20 is dismissed with prejudice on the merits;
  - 21 4. Plaintiff's state law claim pursuant to the California Unruh Civil Rights  
22 Act is dismissed without prejudice; and
  - 23 5. Plaintiff's Motion for Partial Summary Judgment is denied.
- 24

25 Dated: November 15, 2019

  
The Honorable André Birotte Jr.  
United States District Judge